- 9 -

REMARKS

The Examiner has rejected Claims 1-11 and 23-29 under 35 U.S.C. 101 as being directed toward non-statutory subject matter.

The Examiner has rejected Claim 24 under 35 U.S.C. 102(b) as being anticipated by ConSeal PC FIREWALL Technical Summary (ConSeal). Applicant respectfully asserts that such rejection is deemed moot in view of the cancellation of such claim.

The Examiner has rejected Claims 1-10, 12-21, 23, 25-27 and 29 under 35 U.S.C. 103(a) as being unpatentable over ConSeal in view of Beebe et al. (U.S. Patent Application Publication No. 2001/0014150). The Examiner has further rejected Claim 28 under 35 U.S.C. 103(a) as being unpatentable over ConSeal in view of Beebe, in further view of Brock et al. (U.S. Patent Application Publication No. 2003/0110393). Applicant respectfully disagrees with such rejections, especially in view of the amendments made hereinabove to at least a portion of the independent claims.

With respect to Claims 25 and 27, applicant respectfully asserts that such rejection is deemed moot in view of the cancellation of such claims.

With respect to independent Claims 1, 12, 23 and 28, applicant has amended such claims to include the following or similar, but not identical, language:

"wherein a first policy with a higher priority has a first condition associated therewith that is different from a second condition associated with a second policy with a lower priority such that the first policy and second policy are activated under different priority-related conditions" (see the same or similar, but not identical language in each of the foregoing claims).

Applicant respectfully asserts that neither ConSeal, Beebe nor Brock teach such specific claim language. In particular, ConSeal does not even mention any sort of policy

- 10 -

prioritization, urgency, etc. and Beebe only discloses a "multi-tiered policy-enforcement of the Security Policy....[where] corporate-dictated rules will have priority over and remove any conflicting local rule" (see paragraph [0026]). Clearly, the policy prioritization in Beebe only discloses which rules have priority during execution so that conflicting rules are not executed together. Applicant, on the other hand, specifically claims priorities such that "the first policy and second policy are activated under different priority-related conditions" (emphasis added). To emphasize, applicant claims that policies "are activated under priority-related conditions" (emphasis added), whereas Beebe only teaches an order in which policies are executed such that conflicting policies may be prevented from executing.

In addition, Brock only teaches signatures with thresholds for determining when to generate an alert indicating an intrusion (paragraph [0005]). Applicant respectfully asserts that utilizing thresholds to determine when there is an intrusion does not even suggest any sort of priority, or urgency, and especially not in the manner presently claimed by applicant.

With respect to Claim 29, applicant respectfully asserts that the following highlighted language, at the very least, has not been met by the prior art references relied on by the Examiner:

"(a)   identifying a set of a plurality of inactive policies each including a security action, a condition for activating the policy, and a limit for triggering the security action if the policy is active;

(b)   updating the set of inactive policies including:

(i)   receiving another inactive policy,

(ii)   determining whether the user accepts the inactive policy, and

(iii)   adding the inactive policy to the set if the user accepts the inactive policy;

(c)   determining whether the conditions are met for the inactive policies;

- 11 -

(d)   determining whether a user confirms the activation of the inactive policies
       if the associated conditions are met; and

(e)   activating the inactive policies if the user confirms, the activation
       including:

    (i)   adding the inactive policies to a set of a plurality of active policies,

    (ii)   determining whether the conditions associated with the active
        policies are still met,

    (iii) de-activating the active policies if the associated conditions are not
        met, and

    (iv)   executing the security actions associated with the active policies if
        the associated conditions are met and the limits are met, the
        execution of the security actions including:

        (1)   identifying currently executed security actions,

        (2)   determining whether a conflict exists between the currently
            executed security actions, and

        (3)   resolving any conflicts between the currently executed
security actions."

In particular, applicant points out the arguments made below with respect to the
dependent claims, which clearly distinguish the prior art from the highlighted claim
language above.

To establish a *prima facie* case of obviousness, three basic criteria must be met.
First, there must be some suggestion or motivation, either in the references themselves or
in the knowledge generally available to one of ordinary skill in the art, to modify the
reference or to combine reference teachings. Second, there must be a reasonable
expectation of success. Finally, the prior art reference (or references when combined)
must teach or suggest all the claim limitations. The teaching or suggestion to make the
claimed combination and the reasonable expectation of success must both be found in the
prior art and not based on applicant's disclosure. *In re Vaeck,* 947 F.2d 488, 20 USPQ2d
1438 (Fed.Cir.1991).

- 12 -

Applicant respectfully asserts that at least the third element of the *prima facie* case of obviousness has not been met, since the prior art references, when combined, fail to teach or suggest all of the present claim limitations, as noted above. Furthermore, applicant has incorporated at least a portion of the subject matter of former dependent Claims 6 and 8 et al. into independent Claims 1, 12, 23, 26 and 28.

With respect to the subject matter of Claim 6 et al., as presently incorporated into each of the independent claims, the Examiner has relied on pages 1-2 in ConSeal to make a prior art showing of applicant's claimed technique "wherein the activation of the policies includes adding the policies to a set of a plurality of active policies, and executing security actions associated with the active policies if associated limits are met." Applicant respectfully asserts that simply nowhere in ConSeal is there even a suggestion of "a set of a plurality of active policies," let alone where "the activation of the policies includes adding the policies to [the] set" as claimed by applicant (emphasis added). Instead, ConSeal only generally teaches activating rulesets. Clearly, merely activating a ruleset does not even specifically suggest that such activation includes "adding the policies to [the] set."

With respect to Claim 8 et al., as presently incorporated into each of the independent claims, the Examiner has relied on pages 1-2 in ConSeal and paragraph [0226] in Beebe to make a prior art showing of applicant's claimed "identifying currently executed security actions, determining whether a conflict exists between the currently executed security actions, and resolving any conflicts between the currently executed security actions." First, applicant notes that ConSeal does not even mention conflicts, let alone "determining whether a conflict exists," in the specific manner claimed by applicant. Second, applicant asserts that Beebe only teaches "corporate-dictated rules [that] will have priority over and remove any conflicting local rule." Thus, Beebe removes conflicting rules prior to their execution, whereas applicant claims "determining whether a conflict exists between the currently executed security actions" (emphasis added).

- 13 -

Again, applicant respectfully asserts that at least the third element of the *prima facie* case of obviousness has not been met, since the prior art references, when combined, fail to teach or suggest all of the claim limitations, especially in view of the amendments made hereinabove to each of the independent claims.

Applicant further notes that the prior art is also deficient with respect to the dependent claims. Just by way of example, with respect to Claim 9 et al., the Examiner has relied on ConSeal's disclosure of "[a]ctivat[ing] rulesets only for specific applications" to make a prior art showing of applicant's claimed technique "wherein the conditions include a time factor." Applicant respectfully asserts that activating a ruleset for a specific application has nothing to do with a time factor, as claimed by applicant, but instead only relates to a process factor.

With respect to Claim 10 et al., the Examiner has relied on paragraph [0227] in Beebe to make a prior art showing of applicant's claimed technique "wherein the conditions include a source of the policies." Applicant respectfully asserts that Beebe only teaches priority levels for rule implementation being based on the source (see also paragraph [0226]). However, Beebe does not specifically teach "activating the policies whose associated conditions are determined to be met" (see independent claim from which Claim 10 et al. depends-emphasis added) where such conditions include "a source of the policies," in the specific context claimed by applicant.

Since at least the third element of the *prima facie* case of obviousness has not been met, a notice of allowance or a proper prior art showing of all of the claim limitations, in the context of the remaining elements, is respectfully requested.

Still yet, applicant brings to the Examiner's attention the subject matter of new Claims 30-33 below, which are added for full consideration:

- 14 -

"wherein the policies include low priority policies that are default policies which do not expire" (see Claim 30);

"wherein the policies include medium priority policies that are valid for a predetermined time period" (see Claim 31);

"wherein the policies include high priority policies that are valid for another predetermined time period that is less than the predetermined time period associated with the medium priority policies" (see Claim 32); and

"wherein the identifying the set of policies, the determining whether the conditions are met, and the activating the policies are controlled locally" (see Claim 33).

Thus, all of the independent claims are deemed allowable. Moreover, the remaining dependent claims are further deemed allowable, in view of their dependence on such independent claims.

In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 505-5100. The Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 50-1351 (Order No. NAI1P048/01.183.01).

Respectfully submitted,
Zilka-Kotab, PC.

Kevin J. Zilka
Registration No. 41,429

P.O. Box 721120
San Jose, CA 95172-1120
408-505-5100